



PATENT  
FILE NO. 2108.000400/TOI-444-CIP

### DECLARATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or the below named inventors are the original, first and joint inventors (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled "**DEVICE FOR PERFORMING AUTOMATED MICROFRACTURE**" the Specification of which:



is attached hereto.



was filed on **October 30, 2003** as Application Serial No. **10/697,068**.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent, United States provisional application(s), or inventor's certificate listed below and have also identified below any foreign application for patent, United States provisional application, or inventor's certificate having a filing date before that of the application on which priority is claimed:

PRIORITY APPLICATION(S)			Priority Claimed
60/418,545	U.S. Provisional	October 15, 2002	Yes
(Number)	(Country)	(Date Filed)	Yes/No
(Number)	(Country)	(Date Filed)	Yes/No

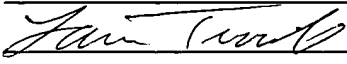
I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56, which become available between the filing date of the prior application and the national or PCT international filing date of this application:

10/348,507	January 21, 2003	Pending
(Application Serial No.)	(Filing Date)	(Status)
(Application Serial No.)	(Filing Date)	(Status)

I hereby direct that all correspondence and telephone calls be addressed to J. Mike Amerson, Williams, Morgan & Amerson, P.C., 10333 Richmond, Suite 1100, Houston, TX 77042, telephone (713) 934-4055, facsimile (713) 934-7011.

I HEREBY DECLARE THAT ALL STATEMENTS MADE OF MY OWN KNOWLEDGE ARE TRUE AND THAT ALL STATEMENTS MADE ON INFORMATION AND BELIEF ARE BELIEVED TO BE TRUE; AND FURTHER THAT THESE STATEMENTS WERE MADE WITH THE KNOWLEDGE THAT WILLFUL FALSE STATEMENTS AND THE LIKE SO MADE ARE PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH, UNDER SECTION 1001 OF TITLE 18 OF THE UNITED STATES CODE AND THAT SUCH WILLFUL FALSE STATEMENTS MAY JEOPARDIZE THE VALIDITY OF THE APPLICATION OR ANY PATENT ISSUED THEREON.

Inventor's Full Name: LANCE TERRILL

Inventor's Signature: 

Country of Citizenship: USA Date: 6 February 2004

Residence Address: (street, number, city, state, and/or country) 4830 N.W. 43<sup>rd</sup> STREET, #0229  
GAINESVILLE, FL 32606

Post Office Address: Same  
(if different from above)



IOT-444CIP

CERTIFICATE OF MAILING  
37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:

3-31-04  
DateMary Paul  
Signature

## PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
BRIAN BURKINSHAW

Serial No.: 10/697,068

Filed: October 30, 2003

For: DEVICE FOR PERFORMING  
AUTOMATED MICROFRACTURE

Group Art Unit: 3732

Examiner: Unknown

Atty. Dkt. No.: 2108.000400

CONSENT OF ASSIGNEE TO THE ADDITION OF A CO-INVENTOR

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The assignee of the above-referenced application, Centerpulse USA, Inc., 9900 Spectrum Drive, Austin, TX 78741, hereby consents to the addition of Lance Terrill as a co-inventor of said application.

CENTERPULSE USA, INC.

By: Chad F. Phipps  
Name: Chad F. Phipps  
Title: Assistant Secretary  
Date: March 23, 2004



WILLIAMS, MORGAN & AMERSON, P.C.

10333 RICHMOND, STE. 1100, HOUSTON, TEXAS 77042

(713) 934-7000 FAX: (713) 934-7011

Danny L. Williams  
Terry D. Morgan  
J. Mike Amerson  
Kenneth D. Goodman  
Jeffrey A. Pyle  
Jaison C. John  
Ruben S. Bains

Shelley P.M. Fussey, Ph.D.\*  
Mark D. Moore, Ph.D.\*  
Raymund F. Eich, Ph.D.\*  
Daren C. Davis\*  
Stephanie A. Wardwell, Ph.D.\*  
Mark W. Sincell, Ph.D.\*

\*Patent Agent

WRITER'S DIRECT DIAL:  
713-934-4055

FILE: 2108.000400

March 31, 2004

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

CERTIFICATE OF MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:	
March 31, 2004	
Date	Signature

RE: *U.S. Patent Application Serial No. 10/697,068*  
*Entitled "DEVICE FOR PERFORMING AUTOMATED*  
*MICROFRACTURE"*  
*Inventors: Brian Burkinshaw and Lance Terrill*  
*Client Reference: IOI-444-CIP*

Sir:

Enclosed for filing in the above-referenced patent application is:

- (1) Statement of Inadvertently Omitted Inventor Under 35 C.F.R. § 1.48(a);
- (2) Declaration;
- (3) Consent of Assignee to the Addition of a Co-Inventor;
- (4) A check in the amount of \$130.00 for the petition fee; and
- (5) A return postcard to acknowledge receipt of these materials. Please date stamp and mail this postcard.

Should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, the Director is authorized to deduct said fees from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2108.000400.

Respectfully submitted,

J. Mike Amerson  
Reg. No. 35,426

JMA/mp  
Enclosures



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
BRIAN BURKINSHAW

Serial No.: 10/697,068

Filed: October 30, 2003

For: DEVICE FOR PERFORMING  
AUTOMATED MICROFRACTURE

Group Art Unit: Unknown

Examiner: Unknown

Atty. Dkt. No.: 2108.000400

**STATEMENT OF INADVERTENTLY OMITTED INVENTOR  
UNDER 37 C.F.R. §1.48(a)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

Sir:

I, Lance Terrill, request addition as a co-inventor to the referenced patent application, and hereby affirm that this error in inventorship occurred without deceptive intention on my part.

Included with this petition is an inventor's declaration as required under 37 C.F.R. §1.63.

Also included is the fee as required under 37 C.F.R. §1.17(i).

Written consent of the assignee to which the originally named inventor assigned their interest is also being filed concurrently with this statement.

Date: 6 Feb 2004

  
LANCE TERRILL

04/06/2004 MAHME1 00000132 10697068

01 FC:1460

130.00 DP